

## **INFORMATION BULLETIN #28WC**

### **SALES TAX**

**MAY 2007**

(replaces Information Bulletin #28WC, dated July, 2004)

**DISCLAIMER:** Informational bulletins are intended to provide non-technical assistance to the general public. Every attempt is made to provide information that is consistent with the appropriate statutes, rules and court decisions. Any information that is not consistent with the law, regulations or court decisions is not binding on either the department or the taxpayer. Therefore, the information provided herein should serve only as a foundation for further investigation and study of the current law and procedures related to the subject matter covered herein.

**SUBJECT:** Indiana Sales & Use Tax on Watercraft & Boat Trailers

**REFERENCE:** IC 6-2.5-1-5, IC 6-2.5-1-6, IC 6-2.5-2-2, IC 2.5-3-6, IC 6-2.5-3-7, IC 6-2.5-4-10, IC 6-2.5-13-1,

### **INTRODUCTION**

The sale of any watercraft shall be subject to the sales or use tax unless such purchase is entitled to one or more of the exemptions as provided on Form ST-108E.

The selling price upon which the tax will be based will be the actual amount of consideration tendered for the watercraft after deducting all cash discounts and trade-in allowances. The deduction for trade-in allowance applies only to a "like-kind" trade and does not apply to other property, either personal or real, which is traded.

**NOTE:** Throughout this bulletin the term “dealer” includes a boat dealer and a registered retail merchant who is not a boat dealer.

## **I. TAXABLE SELLING PRICE**

The dealer’s actual selling price, for which the dealer receives gross retail income, is the amount subject to sales tax.

A **manufacturer’s rebate** is not an allowable deduction from the taxable selling price if the dealer receives payment for such rebate, as shown on the customer’s purchase agreement. A manufacturer’s rebate, as shown on the written purchase agreement, is a form of payment. It is not a reduction in the dealer’s gross retail selling price.

A **manufacturer’s price reduction** is considered deductible for sales tax purposes. This is because the manufacturer is actually reducing the selling price of the watercraft or trailer. The dealer does not receive the amount of the price reduction as consideration for the sale from the manufacturer.

A **dealer’s price discount** is also considered deductible in determining the amount on which sales tax is charged. The selling price is reduced by the dealer’s price discount. The dealer does not receive the amount of the price discount as consideration for the sale.

All types of discounts, regardless of the terminology used to describe the price adjustment, either remains as part of the taxable selling price or is deductible from the amount subject to sales tax based upon whether the selling dealer receives “gross retail income” for the sale or lease.

**Documentation fees** for services performed **after the transfer** of a watercraft or trailer are not considered part of the sales price and, therefore, are not subject to sales tax. Transfer of a watercraft or trailer takes place when the purchaser takes possession and control of the property and assumes the risk of loss, even though title has not yet been transferred. The dealer must maintain adequate records to show which services pertain to the fees charged and that the services were performed after the transfer of the watercraft or trailer to be exempted from sales tax. Documentation fees charged for services performed **prior to the customer taking physical possession** of the watercraft or trailer are subject to sales tax.

**Like-Kind Trade values** are deductible in determining the amount subject to sales tax. An exempt trade must be of like-kind. This means only a watercraft may be traded for another watercraft or a trailer may be traded for another trailer. Any other type trade is merely a payment (consideration) from the buyer, the value of which does not reduce the taxable sales price of the purchase.

The selling price upon which the tax is based for purposes of calculating the sales tax is indicated by the following examples:

(T =Taxable, Amount Subject To Tax; E = Exempt, reduces taxable selling price)

<b>A.</b>	<b>1. Boat Sticker Price</b>	<b>\$12,000 T</b>
	<b>2. Dealer Discount</b>	<b>\$ 500 E</b>
	<b>3. Used Boat Trade</b>	<b>\$ 4,000 E</b>
	<b>4. \$1,000 Rebate Assigned as Down Payment by Purchaser</b>	<b>\$ 1,000</b>
	<b>5. Taxable Selling Price</b>	<b>\$ 7,500</b>

In the above example lines numbers 2 and 3 reduce the selling price subject to sales tax. The dealer discount is deductible as well as the like-kind trade of a boat for a boat. Rebate in this example is used as a down payment but does not increase nor decrease the taxable selling price.

<b>B.</b>	<b>1. Boat Sticker Price</b>	<b>\$12,000 T</b>
	<b>2. Dealer Discount</b>	<b>\$ 500 E</b>
	<b>3. Used Boat Trade</b>	<b>\$ 4,000 E</b>
	<b>4. \$1,000 Rebate Paid to the Customer</b>	<b>\$ 1,000</b>
	<b>5. Taxable Selling Price</b>	<b>\$ 7,500</b>

This example is identical to the above example except the manufacturer's rebate is paid directly to the customer and is not used as a down payment. Note that the taxable selling price remains the same in both examples as rebates, regardless of to whom paid, do not reduce the taxable selling price of the dealer. Items number 2 and 3 do reduce the taxable selling price.

<b>C.</b>	<b>1. Boat Sticker Price</b>	<b>\$12,000 T</b>
	<b>2. Dealer Discount</b>	<b>\$ 500 E</b>
	<b>3. Used Boat Trade</b>	<b>\$ 4,000 E</b>
	<b>4. Manufacturer Price Reduction (not a rebate)</b>	<b>\$ 1,000 E</b>
	<b>5. Taxable Selling Price</b>	<b>\$ 6,500</b>

Items number 2, 3 and 4 reduce the amount subject to sales tax. Items number 2 and 4 are reductions in the retail selling price as the dealer does not receive any form of payment for these reductions. Item number 3 is an allowable reduction in the taxable selling price per statute as it is a like-kind trade. Note – A vehicle taken in trade for a watercraft is not a like-kind trade, per statute, thus does not reduce the taxable selling price.

## **II. PURCHASES FROM INDIANA DEALERS**

If the watercraft is purchased from a registered Indiana dealer, the dealer must collect the tax and provide to the purchaser a completed Form ST-108 showing that the tax has been paid to the dealer. If the purchaser claims exemption and no tax is collected by the dealer, the statement at the bottom of Form ST-108E must be completed and signed by the purchaser. Whenever a purchaser claims an exemption on Form ST-108E, the dealer must retain a completed exemption certificate. An exemption may only be claimed for one of the reasons shown on the reverse side of the ST-108E form.

**Effective July 1, 2004 ALL SALES of watercraft and trailers purchased in Indiana are subject to Indiana sales tax. This includes sales where the purchaser may be a nonresident and intends to immediately register, license or title for use in another state or country. (see section V below for trailer exemption for nonresidents)**

## **III. PURCHASES FROM OUT-OF-STATE SELLERS**

Watercraft purchased outside Indiana and brought into Indiana to be registered or titled are subject to Indiana use tax. The use tax rate is identical to the Indiana sales tax rate. The tax is to be collected upon registration and/or titling at the Bureau of Motor Vehicles. This includes **documented vessels** registered with the U. S. Coast Guard. The tax will be based upon the bill-of-sale or other valid proof of purchase. Credit will be provided for any correctly paid sales or use tax paid to another state, not to exceed the amount of Indiana tax liability.

## **IV. BOAT TRAILERS**

The Indiana sales and use tax applies to sales of boat trailers. The tax will be collected by the registered dealer at the time of purchase. If the trailer is purchased from someone other than a registered dealer, the tax will be collected by the Bureau of Motor Vehicles at the time the trailer is registered and/or titled. If a person claims an exemption for a trailer purchase they must complete and sign a form ST-108E indicating the reason for exemption. Only exemption reasons shown on the ST-108E form will be accepted. The dealer must maintain a copy of this exemption form to document why sales tax was not collected.

## **V. BOAT TRAILER EXEMPTION FOR NONRESIDENT PURCHASERS**

Boat trailers are taxed differently for the two time periods below. A boat trailer qualifying as a "cargo trailer" per I.C. 6-2.5-5-39, designed to be towed by a motor vehicle and having a gross vehicle weight rating of at least two thousand-two hundred (2,200) pounds, sold to a NONRESIDENT who intends to register or title the trailer out-of-state may be entitled to a sales tax exemption.

**July 1, 2005 through June 30, 2006 Exemption:**

Nonresidents claiming exemption must complete a ST-137RV exemption form. The exemption is equal to the difference between the Indiana sales tax and the sales tax that will be due in the other state. The exemption amount can not exceed the amount of the Indiana sales tax. The selling price of the trailer must be clearly indicated separately from the price of a watercraft sold if both items are shown on a single sales invoice. See the Tax Comparison Chart found on the Department's Website under Sales Tax Forms. The purchaser claiming this exemption must submit a copy of their out-of-state registration and/or title to the dealer within 60 days or the dealer becomes liable for the exempted amount of sales tax.

**Beginning July 1, 2006:**

Nonresident purchasers who complete an exemption form ST-137RV stating the trailer is to be registered/titled in a reciprocal state/country is exempt from the Indiana sales tax. A reciprocal state or country is one that will allow an Indiana resident to purchase a watercraft trailer exempt from sales tax in that state if the trailer is to be registered/titled in Indiana.

Nonresident purchasers from a nonreciprocal state/country must pay Indiana sales tax. Nonreciprocal states/countries are those that do not allow an Indiana resident to purchase exempt from their state/country. Dealers must collect sales tax on sales to residents of the below states/countries.

California	Mississippi
Florida	North Carolina
Kentucky	South Carolina
Maine	Canada
Massachusetts	Mexico
Michigan	All Other Countries

The exemption amount can not exceed the amount of the Indiana sales tax. The selling price of the trailer must be clearly indicated separately from the price of a watercraft or any other tangible personal property sold if multiple items are shown on a single sales invoice.

An exemption affidavit, form ST-137RV, must be completed. The ST-137RV is available on the Department's web site at [www.dor.in.gov](http://www.dor.in.gov) under Sales Tax Forms.

Note: This exemption is only applicable to a cargo trailer and is not available for the purchase of a watercraft or any other items of tangible personal property.

**VI. INTERSTATE SALES EXEMPTION**

A watercraft sold in "interstate commerce" is not subject to the Indiana sales tax. To qualify as being "sold in interstate commerce" the watercraft must be physically delivered by the selling dealer to a delivery point outside Indiana. The delivery may be by the dealer or the dealer may hire a third party carrier. Terms and method of delivery

must be indicated on the sales invoice. The dealer must document terms of delivery and must keep a copy of such terms of delivery to substantiate why sales tax was not collected. (ST-108E is not used to support this exemption) This exemption does not apply to sales to out-of-state buyers in which the buyer takes physical possession of the watercraft in Indiana, nor is the exemption valid if the buyer, and not the seller, hires a third party carrier to transport the watercraft outside Indiana. If the buyer hires the carrier, the carrier is acting as an agent for the buyer and thus the buyer takes physical possession within Indiana. Possession taken within the state does not qualify as an interstate sale for sales tax purposes. Please note that other exemptions may still be applicable if the sale does not qualify as an interstate sales exemption.

## **VII. RENTALS OR LEASES OF WATERCRAFT**

**All rentals of watercraft** are subject to the Indiana sales tax. Rentals based upon a hourly rental rate, a daily rental rate or any other means upon which a rental is based is subject to sales tax.

## **VIII. SHOP SUPPLIES CONSUMED BY A DEALER**

Consumable supplies consumed by a dealer, such as masking paper and tape, oil dry, sandpaper, buffing pads, rags and cleaning supplies, used to repair and service watercraft or trailers are not exempt purchases by the dealer. The dealer should pay sales tax at the time of purchase or remit use tax on the cost of these purchases on their sales tax returns. The purchaser (dealer) becomes the final user of such items because its customer does not become the owner of such consumable supplies. Although the dealer may charge the customer a fee for the dealer's consumption of these materials, such items are not being sold to the customers in a retail transaction and sales tax is not to be collected from the customer.

Additional information pertaining to sales tax is found on the Department's Website at [www.in.gov/dor](http://www.in.gov/dor) under the topic BUSINESSES - Frequently Asked Questions.

A handwritten signature in black ink that reads "John Eckart". The signature is fluid and cursive, with a large loop at the end of the last name.

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John Eckart  
Commissioner